

Do I need a Party Wall Award?

The document that is produced by the two party wall surveyors (or the single “agreed surveyor”) is referred to as a Party Wall Award (or Party Wall Agreement) but even if you are entitled to one do you really need one?

Let’s take a look at who benefits from the Act.

For the Building Owner the Act:

- Ensures that damage to the adjoining owner’s property is properly attributed
- Provides rights of access to the adjoining owner’s property to execute work in pursuance of the Act

For the Adjoining Owner the Act:

- Limits the hours during which the notifiable work can be executed.
- Includes provisions for making good damages without the need for a civil claim.
- Provides assurances that their land or buildings will not be compromised during the course of the work.
- Ensures that the Building Owner’s contractor has suitable public liability insurance

Although the adjoining owner receives the greater number of benefits those received by the building owner can be very important, particularly in protecting themselves from spurious claims. It is amazing how an adjoining owner will swear blind that the crack in their building never existed before all that banging started next door.

The only situations where the benefits gained from a party wall award do not outweigh the cost of preparing it would be with minor works. Examples include re-pointing, renewal of flashings or the insertion of a damp proof courses. These are all tasks where technically a party wall notice should be served but the likelihood of significant damage to a neighbour’s property is minimal.

It should be remembered that just because an adjoining owner avoids a party wall dispute by consenting to minor party wall works the building owner’s responsibilities do not disappear.

If you require advice concerning a party wall award in the London area you are welcome to contact Martin Surveying Associates Chartered Building Surveyors, 21 Windmill Hill. Enfield. EN2 7AB Telephone: 020-8366-5000. Fax: 020-8367-8367.

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The Role of the Party Wall Surveyor

The term "surveyor" is defined in the Act as any person who is not a party to the works. That would seem to rule out owners and whoever is overseeing the works on their behalf, be they a builder or architect. The chosen person should have a good knowledge of construction and be well versed in party wall procedures. Ideally they should have a relevant qualification, so popular choices are building surveyors and engineers.

The Party Wall Surveyors (or the "Agreed Surveyor" if the two owners can concur in a single appointment) will prepare a document known as a "party wall award" (sometimes called a "party wall agreement"). This document sets out certain guidelines in relation to how the work should proceed and covers items such as working hours, contractor's insurance and access for the surveyor(s) during the course of the works.

If you do not think your neighbour is likely to consent to the planned works it is worth involving a party wall surveyor at an early stage. The process starts with the service of notice (although the writer suggests that an informal discussion with your neighbour before the notice drops through their door will help to smooth matters later). Although template notices are widely available it is worth remembering that if they do not contain all of the necessary information, or are not properly served, they will be invalid.

The most time consuming task that the Party Wall Surveyor performs, prior to the work commencing, is the preparation of a schedule of condition of the adjoining property. It is essential that this is done accurately so that any damages can be properly attributed. If there are two surveyors this is prepared by the Building Owner's surveyor and proofed by the Adjoining Owner's surveyor.

An important point to remember is that once a surveyor is appointed under the Act, whether as the "agreed surveyor" or by either owner, they have a duty to act in an entirely impartial manner. Owners often find this part of the Act hard to swallow; after all they appointed the surveyor so he should bloody well fight their side of the argument. It might be tempting for a building owner to try and get rid of an intransigent surveyor but alas under the Act this is not possible. Once a Party Wall Surveyor has been appointed they cannot be changed.

Finally we come to fees, under all normal circumstances these are paid by the building owner. It is difficult to talk in figures as they vary widely from job to job and surveyor to surveyor. Surveyors appointed by the building owner tend to quote an hourly rate; £120 is the current average for London, whereas the adjoining owner's surveyor will charge a fixed fee, with contingencies for additional visits, although this figure is only entered into the award just before publication. Fees charged by adjoining owner's surveyors in London range from £700 to £1300 per award.

What is a Party Wall Agreement?

A Party Wall Agreement (technically called an “award”) is the document produced by the two party wall surveyors (or the “agreed surveyor”) acting for the respective owners.

It will usually consist of three parts:

1. The award itself i.e. a set of guidelines governing how the proposed works should progress
2. A “schedule of condition” of the adjoining property, often supported by a set of photographs
3. Drawing(s) showing the details of the proposed works

The award will normally be based upon a draft document, the most popular of which is produced by the RICS, which is then amended according to the details of the specific work. It should clearly state details of the two properties, their owners and their owners' addresses. It should also contain full details of the two surveyors (or agreed surveyor) and the “Third Surveyor” (if an “agreed surveyor” is used there will be no Third Surveyor).

Other items covered include:

- Brief details of the proposed works
- Working hours; normally 8am to 5.30pm weekdays only of residential work
- Assurances regarding the contractor’s public liability insurance
- Indemnities by the building owner in favour of the adjoining owner
- Access arrangement for the surveyors
- A time limit for commencement of the works, usually 12 months
- The adjoining owner’s surveyor’s fee

Once the award has been agreed between the two surveyors it is “published”. In practical terms this means that a signed and witnessed copy is sent to the two owners by their appointed surveyors. Although there is a 14 day right of appeal if either owner believes the award to have been improperly drawn up the award this is seldom observed.

An additional copy of the award is given to the building owner to be passed on to their contractor.